

Regular Meeting of the Sandy Springs City Council was held on Tuesday, August 16, 2011, at 6:00 p.m., Mayor Eva Galambos presiding.

INVOCATION

Dr. Kenneth Link, First Baptist Church of Sandy Springs, offered the invocation.

CALL TO ORDER

Mayor Eva Galambos called the meeting to order at 6:05 p.m.

ROLL CALL AND GENERAL ANNOUNCEMENTS

City Clerk Michael Casey reminded everyone to silence all electronic devices at this time. Additionally, those wishing to provide public comment during either a public hearing or the Public Comment segment of the meeting are required to complete a public comment card. The cards are located at the back counter and need to be turned in to the City Clerk.

City Clerk Casey called the roll.

Mayor: Mayor Eva Galambos present.

Councilmembers: Councilmember John Paulson, Councilmember Dianne Fries, Councilmember Chip Collins, Councilmember Gabriel Sterling, Councilmember Tibby DeJulio, and Councilmember Karen Meinzen McEnery present.

PLEDGE OF ALLEGIANCE

Mayor Eva Galambos led the Pledge of Allegiance

(Agenda Item No. 11-169)

APPROVAL OF MEETING AGENDA

Motion and Vote: Councilmember Fries moved to approve the Meeting Agenda for August 16, 2011. Councilmember Sterling seconded the motion. The motion carried unanimously.

CONSENT AGENDA

(Agenda Item No. 11-170)

1. Meeting Minutes:
 - a) August 2, 2011 Regular Meeting
 - b) August 2, 2011 Work Session*(Michael Casey, City Clerk)*

(Agenda Item No. 11-171)

2. Requirements for Legal Advertising or Official Advertising for the City
(Wendell Willard, City Attorney)
Resolution No. 2011-08-68

(Agenda Item No. 11-172)

3. Approval of Proposed 2012 Road Paving and Reconstruction Priority List
(Kevin Walter, Public Works)

(Agenda Item No. 11-173)

4. Memorandum of Agreement with Gas South
(John McDonough, City Manager)

Motion and Vote: Councilmember DeJulio moved to approve the Consent Agenda for August 16, 2011. Councilmember Sterling seconded the motion. The motion carried unanimously.

PRESENTATIONS

There were no presentations.

PUBLIC HEARINGS

City Clerk Michael Casey read the rules for the Public Hearings section of the meeting.

Alcohol Beverage License

(Agenda Item No. 11-174)

1. Approval of Alcoholic Beverage License Application for Peter Cheng Cuisine at 6450 Powers Ferry Rd, Sandy Springs, GA 30339. Applicant is Dahe Yang for Consumption on Premises of Wine, Malt Beverage and Distilled Spirits

Revenue Supervisor Brandon Branham stated Peter Cheng Cuisine submitted an application for an additional liquor license to be added to their license for consumption on premises of beer and wine. The business has passed all requirements and staff recommends approval.

Councilmember Dianne Fries asked if the previous application was for beer and wine.

Revenue Supervisor Branham responded Peter Cheng's first application was in November for beer and wine.

Mayor Galambos called for public comments in support of or opposition to this application. There were no comments from the public. Mayor Galambos closed the public hearing.

Motion and Vote: Councilmember Meinzen McEnerny moved to approve Agenda Item No. 11-174, Alcoholic Beverage License Application for Peter Cheng Cuisine at 6450 Powers Ferry Rd, Sandy Springs, GA 30339. Applicant is Dahe Yang for Consumption on Premises of Wine, Malt Beverage and Distilled Spirits. Councilmember Fries seconded the motion. The motion carried unanimously.

Rezoning

(Agenda Item No. 11-175)

2. **RZ11-004** - 5525 Long Island Drive, *Applicant: Alan Herrick*, To rezone the subject property from R-1 (Single Family Dwelling District) to R-2 (Single Family Dwelling District)

Senior Planner Doug Trettin stated application RZ11-004 is for the property located at 5525 Long Island Drive. The applicant is seeking to rezone the subject property from R-1 Single Family Dwelling District to R-2 Single Family Dwelling District. The application was approved at the August 4, 2011, Planning Commission Meeting. If the application is approved by Council, staff recommends three conditions.

Mayor Galambos called for public comments in support of or opposition to this application. There were no comments from the public. Mayor Galambos closed the public hearing.

Ron Gudger, Surveyor for the applicant, stated he can answer any questions related to the site.

Mayor Eva Galambos asked for a brief explanation of the property.

Mr. Gudger stated this property has existed at 1.84 acres for many years as nonconforming zoning. The application is to bring the property into zoning compliance.

Councilmember Dianne Fries asked if this is where the owners are giving their neighbors a piece of the property.

Mr. Gudger responded yes.

Councilmember Karen Meinzen McEnerny asked if Mr. Gudger could show what part of the subject property will be given to the adjacent property owner.

Mr. Gudger stated the property that will be given away is the panhandle section.

Mayor Galambos called for public comments in support of or opposition to this application. There were no comments from the public. Mayor Galambos closed the public hearing.

Motion and Vote: Councilmember Meinzen McEnerny moved to approve Agenda Item No. 11-175, RZ11-004 - 5525 Long Island Drive, to rezone the subject property from R-1 (Single Family Dwelling District) to R-2 (Single Family Dwelling District). Councilmember Fries seconded the motion. The motion carried unanimously.

Ordinance No. 2011-08-09

Use Permit

(Agenda Item No. 11-176)

3. **U11-001/CV11-003** - 8725 Dunwoody Place, *Applicant: Atlanta Country Day School*, Use permit to allow a private school at the existing office development, with concurrent variances

Senior Planner Doug Trettin stated this is a use permit application for the property located at 8725 Dunwoody Place. The applicant seeks a use permit to allow a private school at the existing office development with concurrent variances. This application was approved at the August 4, 2011, Planning Commission meeting. If the application is approved, staff recommends two conditions.

Den Webb, Representative of the Applicant, introduced Mel Cohen, Business Manager for Atlanta Country Day School. The Atlanta Country Day School is a private school for nontraditional students. The school teaches grades 7-12 and has a full time enrollment of approximately thirty-five students. There is a 6:1 student teacher ratio. The school was started about thirty years ago in Sandy Springs. For the last eight years the school has operated at 8725 Dunwoody Place in an office complex called the North River Square. The complex contains three office condominiums owned by three different individuals. The school's current space is 3,600 square feet. The school has the opportunity to acquire an additional 1,500 square feet, which would allow the addition of two more classrooms, an increase in the size of the cafeteria, and up to an additional twenty students. There is a recommendation of approval for the application from staff and the Planning Commission. There is a multi-family property to the east of the existing site which triggers some requirements under the relevant use permit code

section. The changes the school is proposing are internal to the existing building. The variances the applicant is seeking are to allow the building and the parking area to remain in their current locations. The applicant agrees with the staff's recommended conditions.

Mayor Galambos called for public comments in support of or opposition to this application.

Barbara Malone, 240 Colewood Way, stated she is here on behalf of the Sandy Springs Council of Neighborhoods. The Council of Neighborhoods supports this application for several reasons. This school is not in the middle of a residential neighborhood and is on a major thoroughfare with excellent public transportation. There are also no parking issues. She was stunned to find out that the school has been operating in this location for eight years and has never applied for a special use permit. This school has operated in a building without sprinkler systems. Given the high priority that Sandy Springs places on safety, this is totally unacceptable. Over the past two years she has asked Community Development if every private school has a special use permit. On every occasion she was told yes. This is not the time to discuss the special use permit, but she will discuss it during public comment.

Mayor Galambos closed the public hearing.

Motion and Vote: Councilmember Fries moved to approve Agenda Item No. 11-176, U11-001/CV11-003 - 8725 Dunwoody Place, *Applicant: Atlanta Country Day School*, Use permit to allow a private school at the existing office development, with concurrent variances. Councilmember Collins seconded the motion. The motion carried unanimously.

Ordinance No. 2011-08-10

Text Amendment

(Agenda Item No. 11-177)

4. **TA11-001** - An Ordinance to Amend Section 10-6, Special permits; kennels, of the Code of the City of Sandy Springs

Senior Planner Doug Trettin stated this is a text amendment regarding special permits for kennels. This item was discussed at the July 12, 2011, Work Session.

Motion and Second: Councilmember Meinzen McEnerny moved to approve Agenda Item No. 11-177, TA11-001 - An Ordinance to Amend Section 10-6, Special permits; kennels, of the Code of the City of Sandy Springs, with the addition of the word "photograph" after the word gender in Sec. 10-6 (b) ii. Councilmember Fries seconded the motion.

Councilmember Karen Meinzen McEnerny stated in her district two years ago there was an issue where an individual was running a commercial kennel. You could not tell if the dogs that the person had at the time were the same or different than when they had originally applied for the application. Without a photograph of the dog, you cannot tell if the dog is the original Fido or Fido 2.

Councilmember Dianne Fries stated it is difficult to tell the difference between Fido and Fido 2 when dealing with purebred dogs. She is not sure a photograph would help if the kennel owner had, for example, twenty-four black Labradors.

Mayor Eva Galambos stated the photograph would show the size of the dog.

Councilmember Gabriel Sterling stated the photograph could be the face of the dog, the whole dog, the puppy, or when the dog is older. This ordinance will be convoluted. He will vote against this item. Does the applicant bring a digital photograph with the application when the puppy is born or does the

dog have to be a certain age? The ordinance will have to be more specific if one is going to be able to tell the difference between two dogs from looking at a photograph.

Assistant City Attorney Cecil McLendon stated in the past staff has utilized photographs as a method of identifying a dog.

Councilmember Sterling stated this ordinance will require any citizen that has four or more dogs to come to the City to get a permit, pay a fee, and take a photograph of the animal. He would rather place a hardship on the staff instead of on the citizens.

Councilmember Meinzen McEnerny stated the City found itself in a situation in a previous case where the kennel owner had to be protected as well as the neighbors. This ordinance is a way to protect the City and all the stakeholders at the same time. The photograph would not be taken by staff, but by the kennel owner as part of the application process.

There were no public comments on this item.

Vote on the Motion: The motion carried 4-2, with Councilmember Sterling and Councilmember DeJulio voting in opposition.

Ordinance No. 2011-08-11

UNFINISHED BUSINESS

(Agenda Item No. 11-178)

1. Consider Requesting DeKalb County Defer Special Land Use Permit (SLUP) Hearings for Concorde Fire Soccer Fields (SLUP 11-17076)

Mayor Eva Galambos asked why this item was added as unfinished business.

City Manager John McDonough stated he authorized this item to be added to the agenda due to time constraints.

Mayor Galambos asked Senior Planner Doug Trettin about the schedule for the DeKalb County hearings.

Senior Planner Doug Trettin responded he did not have that information.

Bill Gannon, 505 Tauton Way, stated the DeKalb County Planning Commission votes on this item in early September. In the latter part of September the DeKalb County Commission votes on the item.

Mayor Galambos thanked Mr. Gannon. She thinks it is premature to ask the DeKalb Commission to postpone an item before staff has any data on the item. She would prefer to see the hydrology studies first.

Councilmember Tibby DeJulio asked if staff has begun investigating this item.

City Attorney Wendell Willard stated this resolution is the City requesting DeKalb County to require a hydrology and flood study and have it available for citizen review.

Mayor Galambos stated the first sentence states to defer the upcoming dates by the DeKalb Planning Commission.

City Manager McDonough stated number one in the resolution can be deleted and number two can be amended by adding the language prior to taking official action. The purpose of this resolution is to ask DeKalb County to require the applicant to have the study performed to see if there would be an impact to the adjacent Sandy Springs property owners.

Motion and Vote: Councilmember Meinzen McEnerny moved to approve Agenda Item No. 11-178, with the following two changes to the resolution: the deletion of subsection 1 and the insertion of the phrase "prior to taking official action" following the word "neighborhoods" in subsection 2, (which will now be subsection 1). Councilmember Fries seconded the motion. The motion carried unanimously.

Resolution No. 2011-08-69

Councilmember John Paulson asked City Manager McDonough if he has spoken to DeKalb County regarding this item.

City Manager McDonough stated he has not had conversation with DeKalb County, but staff will.

NEW BUSINESS

(Agenda Item No. 11-179)

1. Resolution to Authorize the Transmittal of the Draft Annual Capital Improvements Element (CIE) Update to the Regional Development Center and State for Review and Comment

Senior Planner Doug Trettin stated this is a resolution to authorize the transmittal of a draft of the annual Capital Improvements Element update to the Atlanta Regional Commission and to the State Department of Community Affairs. This item is regarding primarily impact fees.

Councilmember Karen Meinzen McEnerny asked if Senior Planner Linda Abaray could give the details on the item.

Senior Planner Linda Abaray stated every year the qualified local government status comes up for renewal at the end of October. The City has to report to the State what has been collected and earmarked in order to collect impact fees. This resolution is for a review and the item will also come back before Council in October for approval.

Councilmember Gabriel Sterling asked what the deadline is to have the money encumbered by.

Senior Planner Abaray stated within five years of collecting the money it has to be earmarked for a project.

Councilmember Sterling asked if the City is coming up on a deadline.

Senior Planner Abaray responded for 2008, next year would be the five year mark.

Motion and Vote: Councilmember Fries moved to approve Agenda Item No. 11-179, Resolution to Authorize the Transmittal of the Draft Annual Capital Improvements Element (CIE) Update to the Regional Development Center and State for Review and Comment. Councilmember Meinzen McEnerny seconded the motion. The motion carried unanimously.

Resolution No. 2011-08-67

(Agenda Item No. 11-180)

2. Resolution to Approve a Contract with Tople Construction for Construction of Community Development Block Grant Sidewalks, T-0033, Phase 1 and Authorization for the City Manager to Execute the Contract

Project Engineer Marty Martin stated on June 16th bids were opened for the Community Development Block Grant sidewalks, Phase 1 construction. The construction will provide sidewalks along the east side of Roswell Road from Dalrymple Road north to Northridge Road. Sidewalks will also be constructed on a portion of the west side of Roswell Road from Morgan Falls Road to just below the Ison Road and Pitts Road intersection. The low bidder, GS Construction, recognized a bidding error, brought it to the attention of the Purchasing Department and was allowed to withdraw from the process. Therefore, staff recommends the bid be awarded to Tople Construction. They have been a successful contractor for the City in the past.

Councilmember Dianne Fries asked about how staff rates the vendors. The lowest bidder is not necessarily the best vendor to award the bid to.

Project Engineer Martin stated Tople Construction's references check out and they have done good work for the City. Other than the math error on the part of GS Construction, they have also done good work for the City.

Councilmember Fries asked if staff has a ranking system that is performed on the vendors.

Project Engineer Martin stated staff performs a reference review of the low bidder. If any derogatory information is found, the Purchasing Department is informed.

Motion and Vote: Councilmember Fries moved to approve Agenda Item No. 11-180, Resolution to Approve a Contract with Tople Construction for Construction of Community Development Block Grant Sidewalks, T-0033, Phase 1 and Authorization for the City Manager to Execute the Contract. Councilmember Sterling seconded the motion. The motion carried unanimously.

Resolution No. 2011-08-70

(Agenda Item No. 11-181)

3. A Resolution authorizing a referendum to allow package sales on Sundays by retailers of package malt beverages, wine and distilled spirits

City Attorney Wendell Willard stated the potential cost to the City for adding this item to a referendum was discussed at the last City Council Meeting. There is not a secure cost at this moment. This item is asking Council to adopt the resolution with the understanding that the City Manager and City Attorney obtain a final figure and inform Council of that amount in order to move forward. The first part of the resolution is the effective date. The original date listed on the resolution was January 1, 2012. There is not a problem with the City adopting an earlier date. Once the referendum has been held and the results have been verified as affirmative for adoption, the resolution can go into effect.

Mayor Eva Galambos asked if the date has to be included in the resolution.

City Attorney Willard responded not a specific date. The resolution will be effective on the first Sunday after the results of the referendum have been certified by the election superintendent that the majority number of votes for passage and approval of the referendum was positive.

Councilmember Chip Collins asked if the referendum question should state anything about Sunday.

City Attorney Willard responded the referendum question should include the words on Sundays between

the hours of 12:30 p.m. and 11:30 p.m.

Motion and Vote: Councilmember Sterling moved to approve Agenda Item No. 11-181, version 2, of A Resolution Authorizing a Referendum to allow Package Sales on Sundays by Retailers of Package Malt Beverages, Wine and Distilled Spirits. Councilmember Fries seconded the motion. The motion carried unanimously.

Resolution No. 2011-08-71

REPORTS AND PRESENTATIONS

1. Mayor and Council Reports

Councilmember John Paulson stated there was a constituent that spoke at the last City Council Meeting regarding the Spalding Corners shopping center located on the east side of the City. This shopping center has a zip code of 30092, which only applies to half a square mile of the City. He spoke to a number of the business owners at this location. That area is serviced by the Norcross Post Office. The United States Post Office only recognizes 30092 as being located in Norcross. When the mail is scanned, if a letter is addressed to Sandy Springs with the zip code of 30092, the letter is rejected and will be hand sorted. The mail will be delivered, but it may be delayed. The businesses recognize they are in Sandy Springs, but they have Norcross listed on their business cards. When using a GPS device with the 30092 zip code and Sandy Springs instead of Norcross, the location will not be found. There was an issue a couple of years ago where a mail carrier stated if the mail was addressed to Sandy Springs, the mail would not be delivered. That person has been moved to another work location. Several people asked if the City, along with the business owners, could host a City event at the shopping plaza. He spoke to staff regarding hosting an event like this.

Mayor Eva Galambos stated the transportation project list was released today. Sandy Springs's number one project was not on the list. The Atlanta Regional Commission (ARC) North Fulton Transportation study included the widening of Hammond Drive, which is also a part of the City's original transportation plan. There was a project on the list that would have taken the Bus Rapid Transit (BRT) down Hammond Drive over to the Perimeter area. The future is light rail and BRT, not heavy rail. The final project list will be released on October 15, 2011. The City has a little time to try and get our projects on the list. The Sandy Springs project was a continuation of a BRT project from the City of Atlanta. The City of Atlanta got their BRT project, but Sandy Springs did not. The City of Atlanta has a disproportionate amount of projects on this list. The beltline is ten percent of all the money. The Sandy Springs projects that are on the list are the GA400 and I-285 interchange; and the collector distributor roads up to Spalding Drive. Other municipalities in North Fulton are upset because their projects did not make the list.

Councilmember Karen Meinzen McEnerny stated the interchange at GA400 and I-285 is only \$450 million.

City Attorney Wendell Willard stated there will be Federal funds beyond that amount.

Councilmember Meinzen McEnerny asked if that will include the Roswell Road Bridge.

Mayor Galambos responded no.

Councilmember Gabriel Sterling stated in regards to the improvements to the collector/distributor streets, it opens up some money, possibly, to put up sound barriers along GA400.

Mayor Galambos stated North Fulton did not have a representative on the executive committee. Mayor Reid was the representative for the City of Atlanta. Ralph Moore was on the committee as well.

Councilmember John Paulson asked if the one percent sales tax that Fulton and DeKalb are paying was addressed at the discussion.

Mayor Galambos responded not at all. The item discussed was the one cent new money, in addition to the one cent that Fulton and DeKalb currently pay. The only heavy rail is the extension of the MARTA line to the City of Roswell. She does not think any government will spend more money on heavy rail. Until someone can figure out how to get from a heavy rail track to a light rail track, she does not think the MARTA line will be extended.

Councilmember Gabriel Sterling stated he had his town hall meeting, which went well. He will host another meeting in the fall. Fulton County has given the City the easement for the Big Trees property. Staff is now waiting on designs for the bathrooms and pavilion.

Councilmember Karen Meinzen McEnerny stated the dates have been finalized for the four meetings at City Hall for the Sandy Springs History Series, October 3, 10, 17, and 24. These meetings are open to the public. There will be a presentation from the President of the Sandy Springs Historic Preservation Society in cooperation with Heritage Sandy Springs.

PUBLIC COMMENT

Barbara Malone, 240 Colewood Way, stated she is here on behalf of Sandy Springs Council of Neighborhoods. In the past two months a few disturbing facts have come to light. First, the special use permits for private schools. One of the reasons special use permits are issued is for safety, to ensure the building has a sprinkler system and to ensure occupancy levels are enforced. On at least three occasions she has questioned senior Community Development staff if all private schools have special use permits. She was told each time that the schools did. Three months ago Atlanta Country Day School applied for a special use permit. The business has been at that location for seven years with no special use permit. Four weeks ago she did a Google search on private schools in Sandy Springs. The first school she came across was the Pierian School in City Walk. It is a location used by many and no one knew a school was located there.

Councilmember Gabriel Sterling asked about the type of school.

Ms. Malone stated it was a fully accredited high school in occupation for one year. The school placed on their business license that they offered acting classes. The school did have a business license, but no special use permit. She decided to review a few more schools. There is a private school called the Cumberland Academy on Mount Vernon and Glenridge. There is also the Rivercliff Lutheran School on Roswell Road. She is still waiting for staff to confirm that these schools have special use permits. It appears due diligence is lacking in regards to private school records. The safety of children in these locations may have been compromised. How many other schools do not have special use permits or even business licenses? It would appear an individual can apply for a business license and receive it on the same day of application in Sandy Springs. Sandy Springs is one of the few municipalities that does not perform due diligence on business license applications. The City does not check to see that the business does what it says it does or is located where it says it is. The City does not check buildings on a regular basis to ensure all the businesses have business licenses or home businesses have licenses. When the City changed vendors recently, saving the City around \$7 million, she wonders how much money the City is losing. The citizens expect the elected officials to ensure their safety and quality of life, and to ensure

that due diligence is performed by the City. She encouraged Council to engage with staff to rectify these short comings.

Mayor Eva Galambos stated at one of the recent City Council Meetings a point was made for staff to increase the efforts to ensure that all businesses have a business license.

(Agenda Item No. 11-182)

EXECUTIVE SESSION

Motion and Vote: Councilmember DeJulio moved to enter into Executive Session to discuss potential litigation. Councilmember Fries seconded the motion. The motion carried unanimously, with Councilmember Paulson, Councilmember Fries, Councilmember Collins, Councilmember Sterling, Councilmember DeJulio, and Councilmember Meinzen McEnery voting in favor of the motion. Executive Session began at 7:03 p.m.

Motion and Vote: Councilmember DeJulio moved to adjourn Executive Session. Councilmember Sterling seconded the motion. The motion carried unanimously, with Councilmember Paulson, Councilmember Fries, Councilmember Collins, Councilmember Sterling, Councilmember DeJulio, and Councilmember Meinzen McEnery voting in favor of the motion. Executive session adjourned at 7:29 p.m.

(Agenda Item No. 11-183)

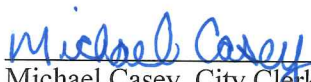
ADJOURNMENT

Motion and Vote: Councilmember Sterling moved to adjourn the meeting. Councilmember Paulson seconded the motion. The motion carried unanimously. The meeting adjourned at 7:30 p.m.

Date Approved: September 6, 2011



Eva Galambos, Mayor



Michael Casey, City Clerk